

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Plaintiff

vs.

Express Construction 3 Corporation

Defendant

CIVIL NO.

COMPLAINT

The United States of America, on behalf of its Agency, the Department of Treasury, by its specially appointed counsel KML Law Group, P.C., represents as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. 1345.
2. The last-known address(es) of the Defendant, Express Construction 3 Corporation is 64 Wright Street, 2nd Floor, Newark, NJ 07114.
3. Defendant owes Plaintiff the principal sum of \$112,200.00, plus interest of \$4,659.12, plus a penalty in the amount of \$27,393.71, plus administration fees in the amount of \$52,077.21, for a total of \$196,330.04. A true and correct copy of the Certificate of Indebtedness is attached as Exhibit "A" ("Certificate of Indebtedness").
4. Demand has been made upon Defendant by Plaintiff for the sum due but the amount due remains unpaid.

WHEREFORE, the plaintiff demands judgment against Defendant as follows;

- (A) In the amount of \$196,330.04 with interest from September 25, 2019.

(B) Plus filing fee allowed pursuant to 28 U.S.C., Section 1914 in the sum of \$150.00

(C) Interest to accrue at the rate of 1% to the date of judgment.

(D) Penalty interest to accrue at the rate of 6% to the date of judgment.

(E) Interest from the date of judgment at the legal rate of interest in effect on the date of judgment until paid in full.

(F) Costs of suit.

Notice is hereby given to Defendant that Plaintiff intends to seek satisfaction of any judgment rendered in its favor in this action from any debt accruing.

United States of America by and through
Its specially assigned counsel
KML Law Group, P.C.

Rebecca A. Solarz, Esquire
701 Market Street, Suite 5000
Philadelphia, PA 19106
Phone: 215-825-6327
RSolarz@kmlawgroup.com

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EXHIBITS

“A” CERTIFICATE OF INDEBTEDNESS

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

The United States of America

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

KML Law Group, P.C. – Rebecca A. Solarz, Esquire
701 Market Street, Ste. 5000, Philadelphia, PA 19106
215-825-6327; RSolarz@kmlawgroup.com

DEFENDANTS

Express Construction 3 Corporation
ATTN: Fabiano Null or Laerte Pereira Dasilva
64 Wright Street, 2nd Floor
Newark, NJ 07114

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- X 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|-----|-----|---|-----|-----|
| Citizen of This State | 1 | X 1 | Incorporated or Principal Place of Business In This State | 4 | 4 |
| Citizen of Another State | 2 | 2 | Incorporated and Principal Place of Business In Another State | 5 | 5 |
| Citizen or Subject of a Foreign Country | 3 | 3 | Foreign Nation | 6 | 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	REAL PROPERTY	LABOR	IMMIGRATION	OTHER
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument X 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury - Medical Malpractice	PERSONAL INJURY 365 Personal Injury - Product Liability 367 Health Care/Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	625 Drug Related Seizure of Property 21 USC 881 690 Other 710 Fair Labor Standards Act 720 Labor/Management Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Employee Retirement Income Security Act	422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 820 Copyrights 830 Patent 840 Trademark 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))	375 False Claims Act 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 850 Securities/Commodities Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal or Agency Decision 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1345

Brief description of cause:

Enforced Collections

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes X No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY



U.S. DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

ACTING ON BEHALF OF
U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)
CERTIFICATE OF INDEBTEDNESS

Express Construction 3 Corporation
64 Wright Street, 2nd Floor
Newark, New Jersey 07114
ATTN: Fabriano Null or Laerte Pereira DaSilva
EIN: [REDACTED]

Treasury Reference #: [REDACTED]

I hereby certify, as part of my duties with the U.S. Department of the Treasury (Treasury), including referring matters to the U.S. Department of Justice (DOJ) for litigation, I am a custodian of records of certain files sent by the U.S. Department of Labor, Occupational Safety & Health Administration (OSHA) to Treasury for collection actions. As a custodian of records for Treasury, I have care and custody of records relating to the debt owed by Express Construction 3 Corporation (DEBTOR) to DOL.

The information contained in this Certificate of Indebtedness is based on documents created by an employee or contractor of DOL based on his/her knowledge at or near the time the events were recorded, including the review of Occupational Safety and Health Administration (OSHA) violations, or by an employee or contractor of Treasury based on his/her knowledge at or near the time the events were recorded, including the review of Occupational Safety and Health Administration (OSHA) violations. Treasury's regular business practice is to receive, store and rely on the documents provided by DOL, when debts are referred to Treasury for collection activities, including litigation.

Upon completion of an investigation covering the DEBTOR's operations from 12/15/2014 through 12/17/2014, DOL issued a Citation and Notice of Penalty against the DEBTOR in the amount of \$112,200.00 with an annual interest rate of 1.00% and an annual penalty rate of 6.00% for failure to provide fire extinguishers for each 3,000 square feet of protected building area; failure to provide stairways and ladders at personnel points of access where the elevation was 19 inches or greater; and failure to provide handrails at stairways having four or more risers more than 30 inches. According to DOL historical records the debt became delinquent on August 10, 2015.

DOL referred the claim to Treasury's Bureau of the Fiscal Service, Debt Management Services (DMS) to collect the delinquent debt on December 1, 2015.

Exhibit A



U.S. DEPARTMENT OF THE TREASURY
BUREAU OF THE FISCAL SERVICE
WASHINGTON, DC 20227

ACTING ON BEHALF OF
U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)
CERTIFICATE OF INDEBTEDNESS

On September 25, 2019, DMS referred the claim to DOJ for litigation and collection in the amount due of \$112,200.00 with daily interest of \$3.07 and daily penalty of \$18.44. Further, I certify that I am familiar with Treasury's record keeping practices, including the receipt of files from DOL. As of September 25, 2019, the DEBTOR is indebted to the United States in the amounts stated as follows:

Principal:	\$ 112,200.00
Interest (@1.00%):	\$ 4,659.12
Penalty (@6.00%):	\$ 27,393.71
Admin Fees:	\$ 52,077.21
Total:	\$ 196,330.04

The balance stated in the case listed above is current as of September 25, 2019, including any applicable interest, penalties, administrative fees, and DMS & DOJ fees (pursuant to 31 U.S.C. 3717(e) and 3711(g)(6), (7); 31 C.F.R. 285.12(j) and 31 C.F.R. 901.1(f); and 28 U.S.C. 527, note).

Pursuant to 28 U.S.C. § 1746(2), I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief based upon information provided by DOL and information contained in Treasury's records.

Regina Crisafulli
Financial Program Specialist
U.S. Department of the Treasury
Debt Management Services